

# REMARKS

Claims 11-16 are pending in this patent application, and all claims remain rejected.

Claims 11, 12, 14 and 15 have been amended without prejudice to later capture the subject matter deleted herein by amendment.

Claims 11 and 12 have been amended to delete the embodiments directed to murine and rat beta secretase. Thus, these claims are now directed to human beta secretase, and to variants and fragments thereof.

Claim 14 has been amended to delete the phrase "beta secretase" for clarity. As amended, this claim is directed to all of the recited polypeptide fragments of SEQ ID NO:1 and SEQ ID NO:4 (human beta secretase), regardless of whether or not each fragment possesses beta secretase activity.

Claim 15 has been amended to correct its dependency

No new matter is added by these amendments.

## **Rejection Under 35 USC, Section 112, Second Paragraph**

Claim 14 has been rejected as allegedly indefinite in the use of the phrase "beta secretase". Applicants assert that this rejection is now rendered moot in view of the amendment set forth herein to claim 14. As amended, claim 14 makes clear that the claimed fragments may or may not have beta secretase activity. As such, Applicants respectfully request removal of this rejection and reconsideration of claim 14.

## **Rejection Under 35 USC Section 102(e)**

Claims 11-14 have been rejected under 35 USC, Section 102(e) as allegedly anticipated by Gurney(a) *et al.* and/or Gurney(b) *et al.* According to the Examiner, these references disclose sequences that are identical to the polypeptides of SEQ ID NOs: 4 and 5 of the subject patent application.

In response, Applicants assert that claims 11-14 of the subject invention would not have been anticipated by Gurney(a) and Gurney(b) at the time they were invented, as Applicants believe that they were the first to invent the claimed subject matter. Applicants note that the priority date for both Gurney *et al.* patents is, at best, September 24, 1998, and Applicants' priority date is March 26, 1999.

Applicants submit herewith the Declaration of Dr. Martin Citron, made under 37 CFR Section 1.131. As is stated in the Declaration, the inventors of the claimed subject matter in the subject patent application had full possession of the complete DNA sequence and the amino acid sequence of human beta secretase prior to the effective date of the Gurney *et al.* reference. As such, Gurney *et al.* cannot be considered to be a proper anticipatory reference against the claimed subject matter under 35 USC, Section 102(e).

In view of the foregoing, Applicants request reconsideration and removal of this rejection.

Applicants believe that the amendments and arguments presented herein serve to place the claims in order for allowance, and a notice to that effect is respectfully solicited.

Respectfully submitted,



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